APPENDIX B

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA - SAN FRANCISCO DIVISION

ORACLE AMERICA, INC.	Case No. CV 10-03561 WHA
Plaintiff,	
v.	**SPECIAL VERDICT FORM**
GOOGLE INC.	**LIABILITY PHASE**
Defendant.	

We, the jury in the above-entitled action, unanimously find the following on the questions submitted to us:

Oracle's Claims for Copyright Infringement

1. Has Oracle proven by a preponderance of the evidence that any of the following infringe Oracle's registered copyrights in the Java 2 SE software platform by copying a sufficient amount of original, protectable elements Oracle's copyrighted works?

    a. Android's API design specifications (documentation) for the 37 API packages at issue

         Yes_____ (finding for Oracle)   No_____ (finding for Google)

    b. The 12 Android software code files

         Yes_____ (finding for Oracle)   No_____ (finding for Google)

    c. Android's implementation (code libraries) of the 37 API packages at issue

         Yes_____ (finding for Oracle)   No_____ (finding for Google)

    If you answered "Yes" to any of the above questions, proceed to question No. 2. If not, please skip to Question No. 5.

2. Has Oracle proven by a preponderance of the evidence that any mobile device company, developer, or end-user other than Google infringed Oracle's registered copyrights in the Java 2 SE software platform by copying a sufficient amount of original, protectable elements of Oracle's copyrighted works by copying Android's API design specifications (documentation) for the 37 API packages at issue?

         Yes_____ (finding for Oracle)   No_____ (finding for Google)

584058.05

If you answered "Yes" to the above question, proceed to question No. 2a. If not, please skip to Question No. 3.

a. Has Oracle proven by a preponderance of the evidence that Google vicariously infringed as a result of the infringement you found in question 2?

Yes_____ (finding for Oracle)   No_____ (finding for Google)

b. Has Oracle proven by a preponderance of the evidence that Google intentionally induced or materially contributed to the infringement you found in question 2?

Yes_____ (finding for Oracle)   No_____ (finding for Google)

Proceed to Question No. 3.

3. Has Oracle proven by a preponderance of the evidence that any mobile device company, developer, or end-user other than Google infringed Oracle's registered copyrights in the Java 2 SE software platform by copying a sufficient amount of original, protectable elements of Oracle's copyrighted works by copying the 12 Android software code files?

Yes_____ (finding for Oracle)   No_____ (finding for Google)

If you answered "Yes" to the above question, proceed to question No. 3a. If not, please skip to Question No. 5.

a. Has Oracle proven by a preponderance of the evidence that Google vicariously infringed as a result of the infringement you found in question 3?

Yes_____ (finding for Oracle)   No_____ (finding for Google)

b. Has Oracle proven by a preponderance of the evidence that Google intentionally induced or materially contributed to the infringement you found in question 3?

Yes_____ (finding for Oracle)   No_____ (finding for Google)

Proceed to Question No. 4.

4. Has Oracle proven by a preponderance of the evidence that any mobile device company, developer, or end-user other than Google infringed Oracle's registered copyrights in the Java 2 SE software platform by copying a sufficient amount of original, protectable elements of Oracle's copyrighted works by copying Android's implementation (code libraries) of the 37 API packages at issue?

> Yes_____ (finding for Oracle)   No_____ (finding for Google)

If you answered "Yes" to the above question, proceed to question No. 4. If not, please skip to Question No. 5.

a. Has Oracle proven by a preponderance of the evidence that Google vicariously infringed as a result of the infringement you found in question 4?

> Yes_____ (finding for Oracle)   No_____ (finding for Google)

b. Has Oracle proven by a preponderance of the evidence that Google intentionally induced or materially contributed to the infringement you found in question 4?

> Yes_____ (finding for Oracle)   No_____ (finding for Google)

Proceed to Question No. 5.

Google's Affirmative Defenses to Copyright Infringement

5. Has Google proven by a preponderance of the evidence that its use of protectable elements of the Java 2 SE software product, if any, constitutes fair use?

> Yes ____ (finding for Google)   No ____ (finding for Oracle)

Proceed to Question No. 6.

6. Laches

a. Do you find that Google has proven by a preponderance of the evidence that Sun (whether under its former name of Sun Microsystems or its current name of Oracle America), delayed filing suit for an unreasonable and inexcusable length of time from the time Sun knew or reasonably should have know it had a claim for copyright infringement against Google?

> Yes ____ (finding for Google)   No ____ (finding for Oracle)

b. If you answered yes to Question 15(a), did this delay materially prejudice Google?

Yes ____ (finding for Google)   No ____ (finding for Oracle)

Proceed to Question No. 7.

7. Equitable Estoppel

a. Do you find that Google proved by a preponderance of the evidence that Sun's communications, conduct or inaction (whether under its former name of Sun Microsystems or its current name of Oracle America) mislead Google into believing that Sun did not intend to assert its copyrights against Google?

Yes ____ (finding for Google)   No ____ (finding for Oracle)

b. If you answered yes to Question 7(a), do you find that Google relied on Sun's misleading communications, conduct or inaction?

Yes ____ (finding for Google)   No ____ (finding for Oracle)

c. If you answered yes to Question 7(b), do you find that Google will be materially prejudiced if Oracle is permitted to assert the copyrights-in-suit against Google?

Yes ____ (finding for Google)   No ____ (finding for Oracle)

Proceed to Question No. 8.

8. Do you find that Google has proven by a preponderance of the evidence that through its language or conduct, Sun (whether under its former name of Sun Microsystems or its current name of Oracle America), consented to Google's use of the asserted copyrights?

Yes ____ (finding for Google)   No ____ (finding for Oracle)

Proceed to Question No. 9.

9. Do you find that Google has proven by a preponderance of the evidence that Sun (whether under its former name of Sun Microsystems or its current name of Oracle America), waived any of its rights to enforce the asserted copyrights or to collect compensation for any of the asserted copyrights?

Yes ____ (finding for Google)   No ____ (finding for Oracle)

Proceed to Question No. 10.

Oracle's Claims for Patent Infringement

10. Has Oracle proven by a preponderance of the evidence that Google made, used, sold, or offered for sale mobile devices that include every requirement of the following asserted claims:

'104 Patent

Claim 11:   Yes_____(finding for Oracle)   No_____ (finding for Google)

Claim 27:   Yes_____(finding for Oracle)   No_____ (finding for Google)

Claim 29:   Yes_____(finding for Oracle)   No_____ (finding for Google)

Claim 39:   Yes_____(finding for Oracle)   No_____ (finding for Google)

Claim 40:   Yes_____(finding for Oracle)   No_____ (finding for Google)

Claim 41:   Yes_____(finding for Oracle)   No_____ (finding for Google)

'205 Patent

Claim 1:   Yes_____(finding for Oracle)   No_____ (finding for Google)

Claim 2:   Yes_____(finding for Oracle)   No_____ (finding for Google)

'720 Patent

Claim 1:   Yes_____(finding for Oracle)   No_____ (finding for Google)

Claim 6:   Yes_____(finding for Oracle)   No_____ (finding for Google)

Claim 10:   Yes_____(finding for Oracle)   No_____ (finding for Google)

Claim 19:   Yes_____(finding for Oracle)   No_____ (finding for Google)

Claim 21:   Yes_____(finding for Oracle)   No_____ (finding for Google)

Claim 22:   Yes_____(finding for Oracle)   No_____ (finding for Google)

'476 Patent

Claim 14:   Yes_____(finding for Oracle)   No_____ (finding for Google)

    Proceed to Question No. 11.

11. Has Oracle proven by a preponderance of the evidence that Google made, used, sold, or offered for sale the Android SDK that includes every requirement of the following asserted claims:

'104 Patent

Claim 11:   Yes_____(finding for Oracle)   No_____ (finding for Google)

Claim 27:   Yes_____(finding for Oracle)   No_____ (finding for Google)

Claim 29:   Yes_____(finding for Oracle)   No_____ (finding for Google)

Claim 39:   Yes_____(finding for Oracle)   No_____ (finding for Google)

Claim 40:   Yes_____(finding for Oracle)   No_____ (finding for Google)

Claim 41:   Yes_____(finding for Oracle)   No_____ (finding for Google)

'205 Patent

Claim 1:   Yes_____(finding for Oracle)   No_____ (finding for Google)

Claim 2:   Yes_____(finding for Oracle)   No_____ (finding for Google)

'702 Patent

Claim 1:   Yes_____(finding for Oracle)   No_____ (finding for Google)

Claim 6:   Yes_____(finding for Oracle)   No_____ (finding for Google)

Claim 7:   Yes_____(finding for Oracle)   No_____ (finding for Google)

Claim 12:   Yes_____(finding for Oracle)   No_____ (finding for Google)

Claim 13:   Yes_____(finding for Oracle)   No_____ (finding for Google)

Claim 15:   Yes_____(finding for Oracle)   No_____ (finding for Google)

Claim 16:   Yes_____(finding for Oracle)   No_____ (finding for Google)

'720 Patent

Claim 1:   Yes_____(finding for Oracle)   No_____ (finding for Google)

Claim 6:   Yes_____(finding for Oracle)   No_____ (finding for Google)

Claim 10:   Yes_____(finding for Oracle)   No_____ (finding for Google)

Claim 19:   Yes_____(finding for Oracle)   No_____ (finding for Google)

Claim 21:   Yes_____(finding for Oracle)   No_____ (finding for Google)

Claim 22:   Yes_____(finding for Oracle)   No_____ (finding for Google)

'476 Patent

Claim 14:   Yes_____(finding for Oracle)   No_____ (finding for Google)

12. Has Oracle proven by a preponderance of the evidence that any mobile device manufacturer, service provide, application developer, or end-user other than Google infringed Claim 11 of the '104 Patent?

Yes_____(finding for Oracle)   No_____(finding for Google)

If you answered "Yes" to the above question, proceed to the next question. If not, please skip to Question No. 13.

a. Has Oracle proven by a preponderance of the evidence that Google actively induced the infringement you found in Question 12?

Yes____(finding for Oracle)   No____(finding for Google)

b. Has Oracle proven by a preponderance of the evidence that Google contributed to the infringement you found in Question 12?

Yes____(finding for Oracle)   No____(finding for Google)

[APPLY THIS APPROACH FOR ANY OTHER INDIRECT INFRINGEMENT CLAIMS FOR WHICH THERE IS A SUFFICIENT BASIS TO HAVE THE JURY RENDER A DECISION]

Proceed to Question No. 13.

Willful Patent Infringement

13. Has Oracle proven that it is highly probable that from an objective point of view the defenses put forth by Google failed to raise any substantial question with regard to infringement, validity or enforcement of the '104 Patent?

Yes_____(finding for Oracle)   No_____ (finding for Google)

If your answer to question 4 was "Yes", please answer question 13.a. If your answer to question 13 was "No", please proceed to question 14.

    a.   Has Oracle proven that it is highly probable that Google actually knew, or it was so obvious that Google should have known, that its actions constituted infringement of the '104 Patent and that that patent was valid?

Yes_____(finding for Oracle)   No_____ (finding for Google)

If your answer to question 13 and 13.a was "Yes", as of what date do you find that Google's infringement became willful?

        _____

14. Has Oracle proven that it is highly probable that from an objective point of view the defenses put forth by Google failed to raise any substantial question with regard to infringement, validity or enforcement of the '205 Patent?

Yes_____(finding for Oracle)   No_____ (finding for Google)

If your answer to question 14 was "Yes", please answer question 14.a. If your answer to question 16 was "No", please proceed to question 15.

    a.   Has Oracle proven that it is highly probable that Google actually knew, or it was so obvious that Google should have known, that its actions constituted infringement of the '205 Patent and that that patent was valid?

Yes_____(finding for Oracle)   No_____ (finding for Google)

If your answer to question 14 and 14.a was "Yes", as of what date do you find that Google's infringement became willful?

        _____

15. Has Oracle proven that it is highly probable that from an objective point of view the defenses put forth by Google failed to raise any substantial question with regard to infringement, validity or enforcement of the '702 Patent?

Yes_____(finding for Oracle)   No_____ (finding for Google)

If your answer to question 15 was "Yes", please answer question 15.a. If your answer to question 15 was "No", please proceed to question 16.

   a. Has Oracle proven that it is highly probable that Google actually knew, or it was so obvious that Google should have known, that its actions constituted infringement of the '702 Patent and that that patent was valid?

Yes_____(finding for Oracle)   No_____ (finding for Google)

If your answer to question 15 and 15.a was "Yes", as of what date do you find that Google's infringement became willful?

_____

16. Has Oracle proven that it is highly probable that from an objective point of view the defenses put forth by Google failed to raise any substantial question with regard to infringement, validity or enforcement of the '720 Patent?

Yes_____(finding for Oracle)   No_____ (finding for Google)

If your answer to question 16 was "Yes", please answer question 16.a. If your answer to question 16 was "No", please proceed to question 17.

   a. Has Oracle proven that it is highly probable that Google actually knew, or it was so obvious that Google should have known, that its actions constituted infringement of the '720 Patent and that that patent was valid?

Yes_____(finding for Oracle)   No_____ (finding for Google)

If your answer to question 16.a was "Yes", as of what date do you find that Google's infringement became willful?

_____

17. Has Oracle proven that it is highly probable that from an objective point of view the defenses put forth by Google failed to raise any substantial question with regard to infringement, validity or enforcement of the '520 Patent?

Yes_____(finding for Oracle)   No_____ (finding for Google)

If your answer to question 17 was "Yes", please answer question 17.a. If your answer to question 17 was "No", please proceed to question 18.

    a. Has Oracle proven that it is highly probable that Google actually knew, or it was so obvious that Google should have known, that its actions constituted infringement of the '520 Patent and that that patent was valid?

Yes_____(finding for Oracle)   No_____ (finding for Google)

If your answer to question 17 and 17.a was "Yes", as of what date do you find that Google's infringement became willful?

_____

18. Has Oracle proven that it is highly probable that from an objective point of view the defenses put forth by Google failed to raise any substantial question with regard to infringement, validity or enforcement of the '476 Patent?

Yes_____(finding for Oracle)   No_____ (finding for Google)

If your answer to question 18 was "Yes", please answer question 18.a. If your answer to question18.a was "No", please proceed to question 19.

    a. Has Oracle proven that it is highly probable that Google actually knew, or it was so obvious that Google should have known, that its actions constituted infringement of the '476 Patent and that that patent was valid?

Yes_____(finding for Oracle)   No_____ (finding for Google)

If your answer to question 18 and 18.a was "Yes", as of what date do you find that Google's infringement became willful?

_____

Google's Affirmative Defenses to Patent Infringement

19. Has Google proven by clear and convincing evidence that the asserted patent claims are invalid as anticipated?

'104 Patent

a. Has Google proven by clear and convincing evidence that the asserted claims were anticipated by David Gries's 1971 textbook, "Compiler Construction for Digital Computers," John Wiley & Sons, Inc.

Claim 11:   Yes_____(finding for Google)   No_____ (finding for Oracle)

Claim 27:   Yes_____(finding for Google)   No_____ (finding for Oracle)

Claim 29:   Yes_____(finding for Google)   No_____ (finding for Oracle)

Claim 39:   Yes_____(finding for Google)   No_____ (finding for Oracle)

Claim 40:   Yes_____(finding for Google)   No_____ (finding for Oracle)

Claim 41:   Yes_____(finding for Google)   No_____ (finding for Oracle)

[APPLY THIS APPROACH FOR ANY ANTICIPATION DEFENSES TRIED TO THE JURY]

Proceed to Question No. 20.

20. The ultimate legal conclusion on the obviousness question will be made by the court. However, in order for the court to do so, you must answer the following preliminary factual questions:[1]

'720 Patent

a. What was the level of ordinary skill in the field that someone would have had at the time the claimed invention was made? (check the applicable answer)

_____[Oracle's contention]
_____[Google'scontention]
_____[other, specify]

b. What was the scope and content of the prior art at the time of the claimed invention? (check the applicable answer)

_____[set forth what Google has offered as the invalidating prior art]
_____[set forth what Oracle asserts was within the scope and content of the prior art]
_____[other, specify]

c. What difference, if any, existed between the claimed invention and the prior art at the time of the claimed invention? .

_____[set forth Goog;le's contention as to the difference]

---

[1] This formulation of the verdict form for obviousness is taken from the Sample Verdict Form from the Model Patent Jury Instructions for the Northern District of California corresponding to the use of Alternative 1 of the model instruction regarding Obviousness, which Google proposes adopting.

      _____[set forth Oracle's contention as to the difference]
      _____[other, specify]

d. Which of the following factors has been established by the evidence with respect to the claimed invention: (check those that apply)
[verdict form should list only those factors for which a *prima facie* showing has been made]:

      _____commercial success of a product due to the merits of the claimed invention
      _____a long felt need for the solution that is provided by the claimed invention
      _____unsuccessful attempts by others to find the solution that is provided by the claimed invention
      _____copying of the claimed invention by others unexpected and superior results from the claimed invention
      _____acceptance by others of the claimed invention as shown by praise from others in the field or from the licensing of the claimed invention
      _____independent invention of the claimed invention by others before or at about the same time as the named inventor thought of it
      _____[other factor(s) indicating obviousness or nonobviousness—describe the factor(s)]

[APPLY THIS APPROACH FOR ANY OBVIOUSNESS DEFENSES TRIED TO THE JURY]

Proceed to Question No. 21.

21. Laches

    a. Do you find that Google has proven by a preponderance of the evidence that Sun (whether under its former name of Sun Microsystems or its current name of Oracle America), delayed filing suit for an unreasonable and inexcusable length of time from the time Sun knew or reasonably should have know it had a claim for patent infringement against Google?

        Yes ____ (finding for Google)   No ____ (finding for Oracle)

    b. If you answered yes to Question 18(a), did this delay materially prejudice Google?

        Yes ____ (finding for Google)   No ____ (finding for Oracle)

Proceed to Question No. 22.

22. Equitable Estoppel

    a. Do you find that Google proved by a preponderance of the evidence that Sun's communications, conduct or inaction (whether under its former name of Sun Microsystems or its current name of Oracle America) misled Google into believing that Sun did not intend to assert its patents against Google?

        Yes ____ (finding for Google)   No ____ (finding for Oracle)

    b. If you answered yes to Question 19.a, do you find that Google relied on Sun's misleading communications, conduct or inaction?

        Yes ____ (finding for Google)   No ____ (finding for Oracle)

    c. If you answered yes to Question 19.b, do you find that Google will be materially prejudiced if Oracle is permitted to assert the patents-in-suit against Google?

        Yes ____ (finding for Google)   No ____ (finding for Oracle)

    Proceed to Question No. 23.

23. Do you find that Google has proven by a preponderance of the evidence that through its language or conduct, Sun (whether under its former name of Sun Microsystems or its current name of Oracle America), consented to Google's use of the asserted patents?

        Yes ____ (finding for Google)   No ____ (finding for Oracle)

    Proceed to Question No. ____.

24. Do you find that Google has proven by clear and convincing evidence that Sun (whether under its former name of Sun Microsystems or its current name of Oracle America), waived any of its rights to enforce the asserted patents or to collect compensation for any of the asserted patents?

        Yes ____ (finding for Google)   No ____ (finding for Oracle)

Have the presiding juror sign and date this form.

Signed: _____ Date: _____

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA - SAN FRANCISCO DIVISION

ORACLE AMERICA, INC.
 	
        Plaintiff,
 	
   v.
 	
GOOGLE INC.
 	
        Defendant.
	Case No. CV 10-03561 WHA
	
	SPECIAL VERDICT FORM
	
	DAMAGES PHASE

We, the jury in the above-entitled action, unanimously find the following on the questions submitted to us:

<u>Actual Damages for Copyright Infringement</u>

1. What dollar amount in damages, if any, has Oracle shown it more likely than not suffered as a result of copyright infringement by Google, in the form of EITHER a fair market value license for the copyright infringement OR lost profits?

    Please fill in only ONE of these blanks:

    FAIR MARKET VALUE LICENSE: $_____.

    OR,

    LOST PROFITS: $_____.

<u>Infringer's Profits for Copyright Infringement</u>

2. What dollar amount, if any, is Oracle entitled to receive from Google as infringer's profits not taken into account in computing actual damages under Oracle's copyright infringement claim?

    $_____.

<u>Damages for Patent Infringement</u>

3. What dollar amount in damages, if any, has Oracle shown it is entitled to as a result of infringement of the following patents?

    For the '104 Patent: $_____

For the '205 Patent: $_____

For the '702 Patent: $_____

For the '720 Patent: $_____

For the '520 Patent: $_____

For the '476 Patent: $_____

Have the presiding juror sign and date this form.

Signed: _____   Date: _____